

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

LINDY G. WRIGHT,

Plaintiff,

V.

**CHATTAHOOCHEE VALLEY
COMMUNITY COLLEGE (CVCC),
et al.,**

Defendants.

Civil Action No. 3:06-CV-1087-WKW

MOTION FOR EXTENSION OF TIME WITHIN
WHICH TO FILE RULE 26(f) PROPOSED DISCOVERY PLAN

COME NOW the Defendants herein and request seven (7) additional days for the purpose of meeting with Plaintiff's counsel and agreeing to a Proposed Discovery Plan for submission to the Court, and as grounds therefor, set forth as follows:

1. On January 11, 2007, the law firm of Nix Holtsford Gilliland Higgins & Hitson, P.C. filed its appearance in this matter on behalf of all Defendants.
2. On January 8, 2007, the Court issued a Rule 26(f) Order requiring that a Proposed Discovery Plan be filed as soon as practicable, but not later than January 17, 2007.
3. The active defense of these Defendants had been turned over to this law firm, but this firm did not receive a copy of the Court's Rule 26(f) Order and, therefore, did not know about the time requirement regarding the submission of the Rule 26(f) Order.
4. The undersigned's first knowledge of a Rule 26(f) proposed plan in this matter was the receipt by this law firm on January 16, 2007 at approximately 10:20 p.m.

of a filing of a Proposed Discovery Plan by Peter A. Dumbuya, one of Plaintiff's counsel.

5. This January 16, 2007, 10:20 p.m., emailed document was opened by undersigned counsel on January 17. This was this law firm's first notice of this Proposed Discovery Plan.

6. The Proposed Discovery Plan states that,

"the parties have agreed to the following Proposed Discovery Plan. . . The Agreement was reached by and between the following attorneys: Peter A. Dumbuya for the plaintiff, Jennifer B. Cooley for the plaintiff, Joan Yvette Davis for the defendants Chattahoochee Valley Community College, Dr. Laurel Blackwell, Dr. James Lowe, and Dr. Dixie Peterson, H. E. Nix, Jr. for the defendants Chattahoochee Valley Community College, Dr. Laurel Blackwell, Dr. James Lowe, and Dr. Dixie Peterson."

7. However, in spite of the allegation made by the Plaintiff's attorneys in this Proposed Discovery Plan, neither Joan Yvette Davis, inhouse counsel for the Department of Post-Secondary Education, State of Alabama, nor H. E. Nix, Jr., spoke with or agreed with the Plaintiff's attorneys regarding this Proposed Discovery Plan.

8. Counsel for the Defendants needs to meet with his clients to discuss a Discovery Plan in this matter before he meets with the Plaintiff's attorneys.

9. The Discovery Plan submitted by the Plaintiff's attorneys (without even consulting with defense counsel and without attempting to contact defense counsel) provided the Court with a Discovery Plan that is not reasonable and is not fair to the Defendants in this case.

10. These Defendants do not need more than a week, if the Plaintiff's attorneys will cooperate, to develop an appropriate Proposed Discovery Plan.

WHEREFORE, these Defendants respectfully request a seven (7) day extension of

time from the date of this motion for the purpose of developing and agreeing upon a proposed Discovery Plan with Plaintiff's counsel.

Respectfully submitted,

/s/ H.E. Nix, Jr.
H.E.Nix, Jr. (NIX007)

OF COUNSEL:

Nix Holtsford Gilliland
Higgins & Hitson, P.C.
Post Office Box 4128
Montgomery, Alabama 36103-4128
(334) 215-8585
(334) 215-7101 facsimile

CERTIFICATE OF SERVICE

I hereby certify that an exact copy of the foregoing instrument has been served on the following individual(s) by email from the Court or by placing a copy of same in the United States Mail, postage prepaid and properly addressed on this 17th day of January, 2007.

Jennifer B. Cooley
Parker & Cooley, LLC
1507 Broad Street
Phenix City, Alabama 36867

Peter A. Dumbuya
Post Office Box 3302
Phenix City, Alabama 36868

Joan Davis
Dept. Of Post-Secondary Education
401 Adams Avenue, Suite 280
Montgomery, AL 36130

/s/ H.E. Nix, Jr.
OF COUNSEL